

### Remarks

This is a response to the office action of September 30, 2003. A petition for a one month extension of time and the required fee are filed herewith. Also enclosed is a fee for nine additional claims and three additional independent claims.

In response to the office action dated September 30, 2003, the applicant is making amendments to the claims. Dealing with each of the matters raised by the Examiner in turn:

#### Claims:

Claim 1 has been amended by incorporating the method steps of claim 9, namely that while the locally generated media content is provided to the held caller, telephony signals from the call continue to be received and are mixed with the media content.

As explained in the description, it is often the case that while on hold recorded announcements are played to the held caller. Examples are advertisements, suggestions for bypassing the queue (e.g. "To leave a message for our agents, press '1' at the tone"), or suggestions of switching to a different media type (e.g. providing an email address or website which might provide assistance with a customer query).

The system of Bilder detects an on-hold condition and presents the held caller with a menu of on-hold activities. When an on-hold activity is selected, the media content from the on-hold activity providers 206 (Fig. 2) replace the original call content completely. In other words, the call data from the holding terminal or PBX is replaced by the on-hold media content.

That this is the case can be clearly seen from the description of the re-establishment of the call when the on-hold condition is removed:

*"While the terminal 104 is in the on-hold condition with respect to the terminal 102, the on-hold activity selection device monitors for a signal from the terminal 102n indicating that the on-hold condition has been removed and communication between terminals 102 and 104 is available. When the on-hold condition is removed, the on-hold activity selection device 104 reestablishes the communication connection from terminal 104 to 102 [emphasis added]." (Column 3, lines 45-52)*

2. Clearly, therefore, the call signals are not provided to the terminal 104 while an on-hold activity is selected. In contrast, the present invention, as defined in amended claim 1, continues to provide the call data, mixed with the on-hold media content, to the held caller. This method is not foreshadowed by Bilder, which treats the call and media content as either/or choices.

2. Furthermore, Bilder's system does not include a media mixer, and so it could not be readily adapted in an obvious manner to fall within claim 1, even if there was a suggestion that the call data and the on-hold media content should be mixed (which of course there is not).

Accordingly, we submit that the novelty and non-obviousness of claim 1 should be recognized.

Claim 9 has been cancelled in consequence of the incorporation of its subject-matter in claim 1.

Corresponding amendments have been made in independent claims 11, 14, 15, 16, 18 and 20, and it is submitted that the patentability of each of these independent claims, along with that of all of the dependent claims, should be recognized for the reasons given above. Claim 19 has been cancelled without prejudice.

New independent method claim 21 is also presented at this time. This claim corresponds to a combination of original claims 1, 7 and 8. While it is noted that claim 8 (which was originally dependent on claim 8 and consequentially on claim 1) was rejected in the office action, it is respectfully requested that the Examiner reconsider this rejection, which appears to be based on

an incomplete appreciation of the subject-matter of this claim.

It is not disputed that mechanisms for switching codes mid-call were known at the filing date. However, the Examiner has alleged that it would have been obvious to use this ability in the Bilder device and method to make the device more compatible with other networks.

The intention of original claim 8 (and hence of current claim 21) is not to improve compatibility with different networks. Rather, the point of this claim is to take advantage of the local generation of media content when using the current invention, and recognition of the fact that the local bandwidth requirements are likely to be less restrictive, and to thereby use a higher quality codec solely for the locally generated media content transmission over the local are network.

Of course, Bilder does not mention or suggest in any way that codec switching has a place in his invention, and therefore the skilled person would not be motivated to seek the solution provided by Schuster.

*claimed?* Additionally, and perhaps more fundamentally, in the system of Bilder the media content is provided at device 114 (Fig. 1), i.e. at a single point on the network, which in the described embodiment is remote from the held caller's terminal 104. Therefore, in this embodiment, it would not be possible, due to bandwidth requirements of the network 101 to use a more compressive codec for in-call voice signals and a less compressive one for on-hold media content, since both signal types are subject to the constraints of the network. In the present invention, on the other hand, because the media content is always generated locally it need not travel over the communications network and can therefore be encoded in a higher quality codec. Accordingly, the feature of claim 21 requires not only a codec switching step, but also the limitation that the media content is always generated locally, which is opposite to what is taught in the Bilder example of delivering content over the network from device 114 to terminal 104.

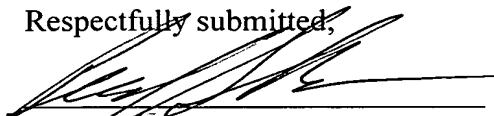
In consequence, we would urge that the patentability of claim 21 be recognized along with that of

each if its dependent claims 22-28. New independent claims 29-31, covering a corresponding computer program product, server, and network, respectively, have also been added and should be allowable for the same reasons.

In view of the forgoing, it is believed the application is in condition for allowance, and favorable consideration is requested.

January 30, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter J. Shakula', is written over a horizontal line.

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